



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 18, 2011

Ms. Lisa D. Mares
Taylor Olson Adkins Sralla Elam L.L.P.
6000 Western Place Suite 200
I-30 at Bryant-Irvin Road
Fort Worth, Texas 76107-4654

OR2011-03746

Dear Ms. Mares:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 416569.

The City of Joshua (the "city"), which you represent, received a request for information involving a named individual. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. Section 58.007 of the Family Code provides in part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are

separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c); *see id.* § 51.03(a)-(b) (defining “delinquent conduct” and “conduct indicating need for supervision” for purposes of Fam. Code tit. 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of Fam. Code tit. 3). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. You contend the police report submitted as Exhibit B-2 is confidential under section 58.007(c). We find Exhibit B-2 involves juvenile suspects. We therefore conclude the city must withhold Exhibit B-2 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Section 552.108 of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate the police reports submitted as Exhibits B-1 and B-3 are related to concluded investigations that did not result in a conviction or a deferred adjudication. Based on your representations, we conclude section 552.108(a)(2) is generally applicable to Exhibits B-1 and B-3.

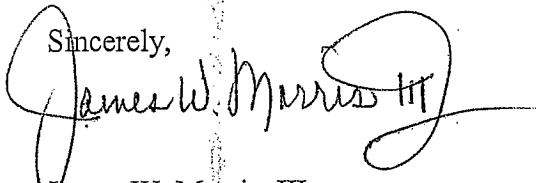
We note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The city must release basic information with respect to Exhibits B-1 and B-3, including detailed descriptions of the offenses, even if the information does not appear on the front page of the police report. The city may withhold the remaining information in Exhibits B-1 and B-3 under section 552.108(a)(2) of the Government Code.

In summary, the city (1) must withhold Exhibit B-2 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code; and (2) may withhold Exhibits B-1 and B-3 under section 552.108(a)(2) of the Government Code, except for the basic information that must be released under section 552.108(c).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris III", with a large, stylized flourish extending from the end of the signature.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 416569

Enc: Submitted documents

c: Requestor
(w/o enclosures)